THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.26464 OF 1996
AND
WRIT PETITION NO.6539 OF 2006

COMMON ORDER :

W.P.No.26464 of 1996 has been filed seeking a declaration that the action of the respondents in not passing any award in respect of the land of the petitioners situated in R.S.Nos.343/5, 343/6 and 343/7 in Pavara Village, Samalkot Mandal, East Godavari District as arbitrary and illegal.

During the pendency of the said writ petition, the 2nd respondent – Revenue Divisional Officer (LAO), Kakinada passed an Award dated 21-11-2005. Contending that the said award dated 21-11-2005 is illegal and violative of the provisions of the Land Acquisition Act, 1894, the petitioners filed W.P.No.6539 of 2006. Hence, both the writ petitions are heard together and decided by this common order.

The petitioners claim to be the owners of land situated in Sy.Nos.343/7, 343/5 and 343/6 of Pavara Village, East Godavari District which was sought to be acquired under the Land Acquisition Act, 1894 (for short, 'the Act') for the purpose of providing house sites to the poor. The notification under Section 4 (1) of the Act was published on 12-4-1984. The enquiry under Section 5A of the Act was dispensed with invoking the urgency clause under Section 17 (4) of the Act and the declaration under Section 6 of the Act was published on 28-4-1984. Thereafter, possession was taken on 10-6-1984. However, W.P.No.9314/1984 filed by the petitioners questioning the action of the respondents in invoking the urgency clause under Section 17 (4) of the Act was allowed on 18-10-1985 holding that the action of the respondents in invoking Section 17 (4) of the Act was unwarranted. Accordingly, the declaration under Section 6 of the Act was set aside and the writ petition was disposed of directing the respondents to conduct enquiry under Section 5A of the Act. Pursuant

thereto after conducting enquiry under Section 5A of the Act a fresh declaration under Section 6 of the Act was made on 17-1-1987. By that time, since the award enquiry was already completed, the petitioners filed W.P.Nos.818 and 2168 of 1987, which were allowed by this Court by order dated 18-11-1988 with a direction to conduct fresh award enquiry.

Thereafter, the 2nd respondent passed Award dated 21-11-2005. The said award is under challenge in W.P.No.6539 of 2006 primarily on the ground that since the impugned award was made beyond two years from the date of publication of declaration under Section 6 of the Act the entire proceedings stood lapsed.

In the counter-affidavit filed on behalf of the respondents in W.P.No.6539 of 2006, the fact that the award was passed only on 21-11-2005 has not been disputed. However, it is explained that some of the petitioners had filed W.A.No.776 of 1989 against the order in W.P.No.818 of 1987, dated 18-11-1998 and this Court ordered that Status quo obtaining as on that date in respect of the acquisition proceedings including dispossession of the petitioners shall be maintained pending further orders. Ultimately, W.A.No.776 of 1989 was dismissed on 5-11-1992 directing the respondents to complete the enquiry expeditiously in terms of the order in the writ petition. However, a copy of the said order was not received by the respondents and that they were not aware about the disposal of W.A.No.776 of 1989. Hence, the award could not be passed earlier. It is also contended that since the possession of the land in question was taken long back on 10-6-1984 and the pattas were also distributed to the beneficiaries, the relief as prayed for cannot be granted.

Heard the learned Counsel for both the parties and perused the material on record.

Though it is a fact that W.A.No.776 of 1989, filed against the

order in W.P.No.818 of 1987 by the 1st petitioner and his mother, was pending till 5-11-1992, it is to be noted that there was no direction by this Court staying the award proceedings.

Under Section 11-A of the Act the respondents are bound to pass award within 2 years from the date of publication of declaration under Section 6 of the Act. Since the declaration under Section 6 was published on 17-1-1987, the period of 2 years expired in the year 1989 itself. Even if the date of disposal of W.A.No.776 of 1989 is taken into consideration the period of 2 years expired on 4-11-1994. Admittedly, the award could be made only on 21-11-2005 long after the expiry of 2 years either from the date of declaration or from the date of disposal of W.A.No.776 of 1989.

Thus, it is clear that the Award dated 21-11-2005 is vitiated and by virtue of Section 11-A of the Act the entire proceedings for the acquisition of the land under the notification dated 12-4-1984 stood lapsed.

For the aforesaid reasons, both the Writ Petitions are allowed with a direction to the respondents to publish a fresh notification under Section 4 (1) of the Act as expeditiously as possible preferably within a period of 3 months from the date of receipt of a copy of this order and thereafter pass a fresh award expeditiously following due process of law. No costs.

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G. ROHINI, J.

Dt. 09-02-2007

BJ